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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,542	10/28/2003	Paul Edward Sturr JR.	46270-0001	5456
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DICKINSON WRIGHT PLLC			REFAI, RAMSEY	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/695,542	<b>Examiner</b> Ramsey Refai	<b>Art Unit</b> 3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 October 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-20 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

DETAILED ACTION

Responsive to claims filed October 23, 2003. Claims 1-20 are presented for examination.

*Drawings*

1. The drawings were received on March 31, 2004. These drawings are acceptable.

*Specification*

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

*Claim Rejections - 35 USC § 101*

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-4 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-4 are directed to a client system for ordering an item, however, the system appears to be merely software. Software per se is not one of the four statutory classes of invention and therefore the claims are rendered non-statutory subject matter.

*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-14 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebman (US Publication 2003/0046166) in view of Grau et al (US Patent No. 6,067, 093).

7. As per claim 1, Liebman teaches a client system for ordering an item comprising:  
a client input for receiving client data (paragraph [0017]: touch screen kiosk for taking customer orders):

a dynamic imaging and dynamic texting display for simultaneously displaying selection items *in an arrangement* (figs 6A-6D, paragraph [0031]; item selections displayed to customer) and selected items in a register receipt tabulated arrangement (figs 6A-6D, paragraph [0031]; list of items selected are displayed in order window);

an ordering component that in response to a performance of at least one action, sends a request to a preparation monitor and a database to order the selected items, the request to the preparation monitor includes the selected items and the request to the database includes the selected items and the client data (paragraphs [0017, 0008]; order information is used at a second location to prepare order. It is also well known and expected in the art that a second display is used at the preparation area in fast food restaurants to prepare the order).

Liebman teaches fails to teach displaying the selection items in a *hub and spoke* arrangement. However, such an arrangement is a design choice and its advantages are well known and expected as evidenced by Grau et al who teach a method for organizing objects displayed as a hub and spoke arrangement (column 1, line 54-column 2, line 6). It would have been obvious to one of ordinary skill in the art at the time of the Applicant' s invention to combine the teachings of Liebman and Grau et al because doing so would allow for items displayed on Liebman' s kiosk to be displayed in a hub and spoke arrangement which would simplify comprehension of options available to customers.

8. As per claim 2, Liebman teaches a credit card reader for receiving the client data (paragraph [0013]) but fails to teach a card reader for simultaneously initializing a new order.

However, the use of a card reader to initiate a new order at a kiosk is well known in the art and is merely a design choice. It would have obvious to one of ordinary skill in the art at the time of the Applicant' s invention to include this feature in Liebman and Grau et al' s system since it was known in the art to use a card reader to initiate a new order.

9. As per claim 3, Liebman teaches wherein said dynamic imaging and dynamic text display includes a touch screen display for selecting the selection items by touching the display and displaying selected items in a register receipt tabulated arrangement (figs 6A-6D, paragraph [0010]).

10. As per claim 4, Liebman teaches a processing unit located remotely from said client input and said dynamic imaging and dynamic text display, said processing unit communicating with said client input and said dynamic imaging and dynamic text display through the internet (paragraph [0033]).

11. As per claim 5, Liebman teaches a method of placing an order for an item the method comprising:

under control of a client system, activating the client system in response to a purchaser entering information (paragraph [0031]; order initiated by patron making a selection on the touch screen);

displaying a distinctive arrangement of item options such that the item options are arranged in *an arrangement* for selection by the purchaser to create an order (figs 6A-6D, paragraph [0031]; item selections displayed to customer);

displaying selected items of the order in an arrangement such that the selected items are arranged in a register receipt tabulated arrangement (figs 6A-6D, paragraph [0031]; list of items selected are displayed in order window); and

in response to an order from the purchaser, sending the order to a server system; under control of a server system, storing the purchaser information (paragraph [0035,0017]);

receiving the order; generating an order to purchase the item; and sending the order to a database and an order preparation monitor (paragraphs [0017, 0008,0010]; order information is used at a second location to prepare order. It is also well known and expected in the art that a second display is used at the preparation area in fast food restaurants to prepare the order).

12. As per claim 6, Liebman teaches reading a card having stored information unique to the purchaser, said method further including the step of storing the purchaser information and the order for use in connection with creating a sales report associated with the purchaser (paragraphs [0013, 0032]; credit cards).

Liebman fails to teach *activating the client system in response to a purchaser entering information includes the step of reading a card.*

However, the use of a card reader to initiate a new order at a kiosk is well known in the art and is merely a design choice. It would have obvious to one of ordinary skill in the art at the time of the Applicant' s invention to include this feature in Liebman and Grau et al' s system since it was known in the art to use a card reader to initiate a new order.

13. As per claim 7, Liebman teaches wherein said step of displaying selected items of the order in an arrangement such that the selected items are arranged in a register receipt tabulated arrangement further includes the steps of:

displaying a tab associated with each selected item for modifying the selected item (fig 6B, paragraph [0031]; user can customize order using display);

displaying item options in a hub and spoke arrangement related to the selected item to be modified in response to the purchaser selecting the tab associated with the selected item (fig 6B, paragraph [0031]; user can customize order using display, each displayed item contains related items/options associated with that displayed item).

14. As per claim 8, Liebman teaches wherein each of said arrangement of item options displayed in a hub and spoke arrangement represents a category of specific items and said method further includes the step of displaying category item options in a hub and spoke arrangement for selection by the purchaser, each of said category items being related to the selected item (fig 6A-6B; user can customize order using display, each displayed item contains related items/options associated with that displayed item).

15. As per claim 9, Liebman teaches displaying in a hub and spoke arrangement customization item options related to the selected category item, said customization item options being related to customizing the selected category item (fig 6B, paragraph [0031]; user can customize order using display, each displayed item contains related items/options associated with that displayed item).

16. As per claim 10, Liebman teaches printing a receipt detailing said selections, including customization item options related to the selected category items and including a coupon for a future purchase based on purchaser information entered when activating the client system (paragraph [0016-0037]).

17. As per claim 11, Liebman teaches under control of a client system, displaying permanently visible instructions (fig 6A).

18. As per claim 12, Liebman teaches determining an order total in response to an input by the purchaser to complete the order, before ending the order to the server system (fig 6D).

19. As per claim 13, Liebman teaches suggesting an item to the purchaser before sending the order to the server system (paragraph [0012]) but fails to teach suggesting an item that will round up the order to an even dollar amount. However it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to include such a feature because doing so would increase store sales and profitability and would eliminate the need for change when paying cash.

As per claim 14, Liebman teaches suggesting the item further includes the step of selecting the suggested item based on the selected items arranged in the register receipt tabulated arrangement (paragraph [0031]).

20. As per claim 16, Liebman teaches a method of placing an order for an item the method comprising:

activating a kiosk user interface having a touch screen (paragraph [0031]);  
entering an order by touching the touch screen at predetermined locations arranged in an *arrangement*; modifying the order (paragraph [0017, 0031]), if needed, by touching the order arranged in a register receipt tabulated arrangement (figs 6A-6D, paragraph [0031]; list of items selected are displayed in order window); and completing the order (paragraph [0017, 0031]).

21. As per claim 17, Liebman teaches wherein Liebman teaches a credit card reader for receiving the client data (paragraph [0013]) but fails to teach a user interface is *activated by reading a card*.

22. However, the use of a card reader to activate a user interface is well known in the art and is merely a design choice. It would have obvious to one of ordinary skill in the art at the time of the Applicant's invention to include this feature in Liebman and Grau et al's system since it was known in the art to use a card reader to initiate a new order.

23. As per claim 18, Liebman teaches wherein said step of entering an order by touching the touch screen at predetermined locations further includes the steps of selecting a category of items by touching the touch screen, and displaying the category item options associated with the selected category in a hub and spoke arrangement in response to touching the touch screen (paragraph [0031, 0017], figs 6A–6D).

24. As per claim 19, Liebman teaches wherein said step of entering an order by touching the touch screen at predetermined locations further includes the step of selecting category items from the displayed category item options by touching the screen at predetermined locations in a hub and spoke arrangement (paragraph [0031, 0017], figs. 6A–6D).

25. As per claim 20, Liebman teaches wherein said step of entering an order by touching the touch screen at predetermined locations further includes the step of displaying customized item options in a hub and spoke arrangement in response to said step of selecting category items, said customized item options being related to the selected category item (paragraph [0031, 0017], figs 6A–6D; user can customize order using display, each displayed item contains related items/options associated with that displayed item).

26. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liebman (US Publication 2003/0046166) in view of Grau et al (US Patent No. 6,067, 093) and in further view of Eprahim et al (US Patent No. 5,953,725).

27. As per claim 15, Liebman fail to teach updating the client system information and items through the web without the need to recompile or recode the software used for generating the display of item options. However, this is well known in the art as evidenced by Eprahim et al who teach remotely updating information/contents on a kiosk while online (abstract) and without changes to the basic design or configuration of the kiosk (column 2, lines 9–38, column 3, lines

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32-40). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to combine the teachings of Liebman, Grau et al, Eprahim et al because doing so would allow for the kiosk to be updated remotely while still maintaining the hub and spoke arrangement of data on the display.

*Conclusion*

The prior art made of record and not relied upon, which is considered pertinent to applicant's disclosure, are cited in the Notice of Reference Cited form (PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ramsey Refai  
Examiner  
Art Unit 3627  
September 26, 2007

*RR*

*RZ* 9/26/07  
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